

FILED 13 DEC '22 10:44 USDC-ORP

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

Portland division

JAMES THORNTON,

Plaintiff,

v.

Ms. CARTER, medical manager at DRCI,
 Mr. Bailey, assistant medical manager at DRCI,
 Mr. Guttman, dentist at DRCI, Ms. MUNSEY,
 dental assistant at DRCI, Martinez, RN nurse at
 DRCI, Allen, nurse at DRCI, Rivera, nurse at DRCI
 Heidi Steward, ODOC director, Joe Bugher assistant)
 H.S. Director at DRCI, Mr. Shook ODOC
 dental director, Staci Cronin, dental
 operations manager, Christopher Randall
 superintendent,
 DRCI, Ms, Bunnell correctional officer (C/O),
 All defendants are sued in their official
 capacities and individual capacities ,
 Defendants.

Case No. 3:22-cv-00925-AR

AMENDED COMPLAINT #2
 for "Deliberate Indifference"

Jurisdiction & venue

1. This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The court has jurisdiction under 28 U.S.C. Section 1331 and 1343 (a) (3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff's claim for injunctive relief is authorized by 28 U.S.C. Section 2283 & 2284 and Rule 65 of the Federal Rules of Civil Procedure.

1. The Portland District Court, is an appropriate venue under 28 U.S.C. Section 1391 (b) (2) because it's where the events giving rise to this claim occurred.

Parties

2. Plaintiff **James Thornton**, at all times relevant was confined in the Oregon Department of Corrections (ODOC) custody at Deer Ridge Correctional Institution (DRCI) where his medical needs were neglected by the Defendants, causing serious injury.
1. **CARTER**, at all times relevant was the Medical Manager at DRCI, managing all Health Services (H.S.) and Dental Operations conducted by Defendants GUTTMAN and MUNSEY. Signing and affirming their conduct.
3. **BAILEY**, at all times relevant was the Medical Assistant Manager, also managing all Health Services and Dental Operations conducted by Defendants GUTTMAN and MUNSEY. Managing under CARTER, signing and affirming Defendants GUTTMAN'S and MUNSEY'S conduct.
4. **GUTTMAN**, at all times relevant was the Dentist at DRCI, providing the negligent dental care to Plaintiff's needs.
5. **MUNSEY**, at all times relevant was the Dental Assistant at DRCI, assisting GUTTMAN in the negligent dental care provided to Plaintiff.
6. **Heidi Steward**, at all times relevant was the ODOC Director. Representing the official capacity in which Defendants CARTER, BAILEY, GUTTMAN, and MUNSEY are all representing and acting under throughout Plaintiff's case.
7. **Joe Bugher**, at all times relevant was the Assistant Director of Health Services for ODOC approving and managing all H.S. And dental operations conducted by CARTER, BAILEY, GUTTMAN, MUNSEY, Staci Cronin, signing and affirming their conduct.
8. **G.SHOOK** at all times relevant was the ODOC dental director. Representing the official capacity in witch defendants CARTER, BAILEY, GUTTMAN, MUNSEY, Staci Cronin. By Signing and affirming their conduct.
9. **Staci Cronin**, at all times relevant was the dental operations manager at DRCI, managing all the dental operations by defendants, GUTTMAN, MUNSEY. signing and affirming their conduct.
10. **Christopher Randall**, is the superintendent/warden, of DRCI. He is legally responsible for the operation of DRCI and the welfare of all Adults In Custody (AIC)'s in that prison.
11. **S. Bunnell** is a corrections officer of Oregon department of corrections who, at all times mentioned in this complaint, held the position of correctional officer (c/o) and was assigned to DRCI. And also who assumes responsibility for the safty and wellbeing of all AIC's under her watch.
12. **Each defendant is sued individually and in his or her official capacity. At all times mentioned in this complaint each defendant acted under the color of state law.**
13. **Martinez**, at all times relevant was a registered nurse (RN) at DRCI and held the rank as rn and refused to provide medical treatment to the plaintiff.
14. **Allan**, at all times relevant is a nurse. And is assigned to DRCI. And refused emergency care to the plaintiff.
15. **Rivera**, at all times relevant is a nurse. And is assigned to DRCI. And refused emergency care to the plaintiff.

Facts

1. Between December 14, of 2021 and January 31, 2022, Thornton sent multiple AIC communication's requesting urgent/emergency dental care, but was denied treatment by DRCI dentist Guttman. This is deliberate indifference to medical needs, cruel unusual punishment.
2. December 23, 2021 instead of providing urgent dental treatment/care, DRCI dentist Guttman gave me an expired blister pack of an inflammatory medication called naproxen witch hurt my stomach worse, causing my body more harm then good. And without seeing me, Also after informing Guttman many times through AIC communication forms that the plaintiff needed help, the IBP, Tylenol wasn't helping with the pain as well as infection in his teeth, witch is cruel and unusual punishment and deliberate indifference.
3. January 15, 2022 Thornton had woke up at approx.: 2:30 am in excruciating pain went to the officer station and asked Correctional Officer (c/o) Bunnell to call medical she told him no that he needed to go back to bed. She acted outside the scope of her job by denying Thornton medical treatment, witch is cruel and unusual punishment and conditions of confinement.
4. On January 31, 2022 after sending numerous emergency AIC communication forms Thornton's urgent medical needs were neglected by DRCI dentist Guttman as well as DRCI Health services (H.S.) staff for 2 months witch then made the infection in his face so bad that on January 31, 2022 at approx.: 9 pm he had to be hospitalized due to the infection spreading through his blood due to Guttman braking Thornton's nasal cavity bone to dig at the infection and then being refused emergency medical treatment. 2 different times within a 5day period, the second time haven to be admitted for 4 days pending an emergency surgery to his eye. This is cruel and unusual punishment, and torch-er.
5. On January 31, 2022 Thornton had woke up at 1 am in excruciating pain he then went to his cell door and pushed his emergency button for help the c/o Bunnell came to his door, asked Thornton what was wrong Thornton then told the c/o Bunnell he needed medical that he was in excruciating pain and holding the left side of the face, c/o Bunnell told Thornton no she is not calling medical. Thornton then said "I need medical right now" c/o Bunnell said "I'm not calling medical got to bed" this is security acting outside the scope of her job by refusing medical. This is cruel and unusual punishment and conditions of confinement indifference to medical needs.
6. Thornton continued to push the emergency button in the cell to get help due to Bunnell refusing Thornton emergency medical treatment she then called for DSU officers to come and remove Thornton to place him in DSU due to him needing emergency treatment. Witch is deliberate indifference as well as cruel and unusual punishment.
7. On January 31, 2022 at 6 am the cell doors had opened for the day Thornton went straight to the c/o Chambers and had shown c/o Chambers the swelling in his face c/o Chambers made multiple calls to the medical H.S. unit at DRCI, they refused to see him. and said that dental dentist Guttman and dental assistant Munsey was busy. This is, deliberate indifference to medical needs, as well as cruel and unusual punishment.
8. On January 31, 2022 after numerous calls by c/o Chambers to medical/dental, and more swelling/pain to Thornton's face dentist Guttman and dental assistant Munsey, had Thornton go to the disciplinary segregation unit (DSU) to be seen. Once he arrived at the DSU corporal (cpl) Thatcher opened the door and said what's going on Thornton I

removed my hand from the left side of my face and cpl thatcher stated "oh wow pretty swollen" he then seen the dentist Guttman and assistant Munsey they then lied and neglected to identify Thornton's swelling and infection and by saying he was fine and that there was no infection nor swelling. He was refusing dental care that was emergent refusing to prescribe Mr. Thornton antibiotics. this is deliberate indifference, torch-er and cruel and unusual punishment and deliberate indifference to medical needs.

9. On January 31, 2022 Thornton after being sent back to his unit/cell Thornton had called his girlfriend (GF) Diane Large, and his mother Kate Morales, asking them to help him by calling 911 or anything they could. (see phone records) they made multiple calls to DRCI and spoke to Baily and Carter. the dome building DOC HEADQUARTERS they made formal complaints with the dome building staff and with medical manager Carter, and assistant medical manager Bailey. This is deliberate indifference to medical needs, cruel and unusual punishment.

10. On January 31, 2022 Throughout the afternoon the swelling and pain became so bad that at approx.: 3:20 pm Thornton was sitting in the day room in the housing unit C and when Thornton went to get up to go back to the officers desk for help for the 14th time Thornton then passed out falling to the floor about 5-10 minutes later medical came and had kept trying to force Thornton who was crying and unable to comprehend anything but the excruciating pain in his face, to stand up and get in a wheel chair. Once to medical the H.S. Nurses and dental assistant Munsey, kept coercing Thornton to sign unspecified documents that he was unable to read or comprehend due to him loosing sight in the left eye Also the dental assistant Munsey had took it upon herself to fill out Thornton medical history without knowing anything about Thornton. Munsey and the H.S. Nurses had kept telling Thornton if he did not sign the papers he was not going to get help and that they were going to go home without emergency treatment. Coercion is a criminal offense, this is deliberate indifference to medical needs, torch-er, unsafe conditions, cruel and unusual punishment.

11. On January 31, 2022 dentist Guttman and dental assistant Munsey, extracted 3 of Thornton's left front upper teeth without Thornton having been on any antibiotics before hand for the infection, Thornton had going on at this time and while Thornton's face was very swollen after the removal of Thornton's upper front teeth dentist Guttman told Thornton that he could see the infection and he wanted to try to get some of it. He proceeded to do so and right as he started Thornton heard a "pop" then heard the dentist say "oops" Thornton said what was that Guttman replied nothing your fine. he had broke my nasal cavity bone to dig at an infection. Then sent me back to my unit/cell. This is deliberate indifference, cruel and unusual punishment, and assault,

12. On January 31, 2022 after being sent back to Thornton's cell Thornton became very cold and had requested help he could not hardly talk and could not get warm. This is a sign of blood poisoning Thornton's cell mate had went and filed up soda bottles with hot water and placed them in Thornton's blanket with him while another AIC hit Thornton's emergency button and went to get the c/o mode at 7:05pm who was then on duty at this time no one came to help Thornton after hitting Thornton's emergency button it took 10-15 min for the officer mode to get to Thornton at that time Thornton had tried to go for help but went down to the floor another AIC had told the c/o mode to get the thermometer he did and took my temp it showed 104.7 multiple times of re taking the temp he took it

another 2 times after changing the batteries and same thing he called medical. Medical told him once they are done with med line "witch took 45 min to 1hr to get though" they will come to the unit. He took my temp again and it was 104.8. this is torch-er, deliberate indifference to medical needs and cruel and unusual punishment, conditions of confinement.

13. On February 4, 2022 I had field a grievance about DRCI violating my rights and all the issues I had received feed back affirming the conduct that accrued from Guttman, Staci Cronin, G. Shook, Joe Bugher, Carter, Bailey.

LEGAL CLAIMS

1. Plaintiff allege and incorporate by reference clams 1-13
2. The deliberate indifference to medical needs, unsafe conditions violated plaintiff James Thornton's rights and constituted, deliberate indifference, unsafe condition conditions of confinement cruel and unusual punishment, torch-er, under the 8th and 14th amendment to the united states constitution.
3. The plaintiff has no plan, adequate or complete remedy at law to redress the wrongs described herein. Plaintiff has been and will continue to be irreparably injured by the conduct of the defendants unless this court grants the declaratory and injunctive relief witch plaintiff seeks
4. I the plaintiff, am suing the defendants for deliberate indifference.
5. All the defendants know the united states constitution.
6. All defendants broke and violated the constitution of the united states.
7. The defendants intentionally ignored the constitution of the united states with the intent to do harm.
8. Plaintiff is suing each individual defendant not the state.

EXHAUSTION OF LEGAL REMEDIES

1. Plaintiff James Thornton used the prisoner grievance procedure available at DRCI to try and solve the problem on 02/05/2022 returned for correction 02/12/2022 Thornton refiled a corrected grievance, returned for correction Thornton refiled 02/24/2022 that was

accepted awaiting response Mr. Guttman and Staci Cronin they responded on 03/23/2022 grievance # DRCM 2022-02-007, Plaintiff James Thornton presented the facts relating to this complaint. On 04/06/2022 Thornton filed a grievance appeal that was accepted and answered on 05/12/2022 by, Mr. shook ODOC dental director, Joe Bugher assistant director for health services. **Administrative remedies finished 5/12/2022.**

PRAYER FOR RELEIEF WHEREFORE,
 plaintiff respectfully prays that this court enter
 judgment granting plaintiff:

1. A declaration the acts and omission described herein violated plaintiff's rights under the constitution and laws of the united states.
2. A preliminary and permanent injunction ordering the defendants, Dentist Guttman and dental assistant Munsey be removed from their dental practices. And their licenses pulled with the state of Oregon.
3. Plaintiff ask the court to order the defendants to get him dental care by a specialist outside the ODOC, in the form of injunctive relief
4. Plaintiff is released from ODOC custody on 10/21/2023, and his dental needs require immediate injunctive relief. If plaintiff graduates alternative incarceration program (AIP) his release date will be approx.: 05/23/2023, there for requiring even more urgent injunctive relief.
5. Compensatory damages in the amount of \$50,000.00 fifty-thousand dollars against each defendant jointly and separately.
6. Punitive damages in the amount of 350,000.00 three-hundred fifty-thousand dollars against each defendant.
7. A jury trial on all issues triable by jury.
8. Plaintiff's costs in this suit and all attorney fees of 7,500,00 seventy-five hundred dollars.
9. Any additional relief this court deems just, proper, and equitable. Dated:
10. Pain and suffering in the amount of 50,000,00 fifty-thousand dollars.
11. Compensatory damages for fracturing my nasal bone 60,000,00 sixty-thousand dollars.
12. Punitive damages for all my constitutional and civil rights that where violated 175,000,00 one-hundred seventy-five-thousand dollars from each defendant.
13. Emotional trauma damages 45,000,00 forty-five-thousand dollars from each defendant.
14. Compensatory damages for the retaliation from DOC 20,000,00 twenty-thousand dollars.
15. respectfully submitted by James Thornton

VERIFICATION

14. I have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and brief, and as to those i believe them to be true i certify under penalty of perjury that the foregoing is true and correct.
 Executed at powder river correctional facility (PRCF) on 08/18/2022

Certificate of service

I certify that on December 8th 2022 I served the foregoing plaintiffs second amended complaint for deliberate indifference, upon the parties hereto by method indicated below and addressed to the following;

Vanessa A. Nordyke,
Department of justice x Mail delivery
1162 court street NE
Salem, OR, 97301-4096

United states district court
Office of the clerk
District of Oregon x Mail delivery
740 united states courthouse
1000 SW third avenue
Portland, OR, 97204-2902

Respectfully Submitted,

James Thornton 08/18/2022

(Signature)

Print Name: James M. Thornton

Sid # 16970097

Dated _____

3600 13th st
baker city, OR, 97467